

## HOUSE BILL NO. 314

INTRODUCED BY K. VAN DYK

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING METHODS FOR THE FISH, WILDLIFE, AND PARKS COMMISSION AND DEPARTMENT OF FISH, WILDLIFE, AND PARKS TO DIRECT THE DISPERSAL OR REMOVAL OF CONCENTRATIONS OF BIG GAME ANIMALS THAT POSE A THREAT TO LANDOWNERS AND LIVESTOCK OR TO THE HEALTH OF WILDLIFE, HABITAT, OR THE PUBLIC; DEFINING "BIG GAME ANIMAL" AND "CONCENTRATION"; PROVIDING REMEDIES AND PENALTIES FOR CONCENTRATING BIG GAME ANIMALS; CREATING AN ADVISORY BOARD TO REVIEW REQUESTS FOR INVESTIGATION OF BIG GAME ANIMAL CONCENTRATIONS AND TO ADVISE THE DEPARTMENT ON THE ISSUE; AND AMENDING SECTION 87-1-225, MCA."

WHEREAS, concentrations of big game animals may cause damage to private and public lands; and  
WHEREAS, management of big game animal populations requires the cooperation of private landowners, public land managers, the department of fish, wildlife, and parks, and the hunting public; and

WHEREAS, the primary method of managing big game animal populations is by harvesting big game animals through public hunting; and

WHEREAS, existing laws are not adequate to address problems associated with the concentration of big game animals, given the free-roaming nature of wildlife populations, their movement across private and public land, and varying management approaches; and

WHEREAS, wildlife resources are valuable to the citizens of Montana without regard to political boundaries; and

WHEREAS, it is the intent of the Montana Big Game Animal Damage Mitigation Act to keep big game animal populations in balance with the available habitat and to minimize, alleviate, and resolve game damage problems.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION.** **Section 1. Short title.** [Sections 1 through 8] may be cited as the "Montana Big Game Animal Damage Mitigation Act".

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2       **NEW SECTION. Section 2. Prohibition on creating or maintaining conditions leading to**  
3 **concentration of big game animals -- definitions.** (1) As used in [sections 1 through 8], the following definitions  
4 apply:

5           (a) "Big game animal" means deer, elk, antelope, and wild buffalo or bison.

6           (b) "Concentration" means the occurrence of big game animals within the boundary of a property under  
7 private ownership in numbers that create:

8           (i) a potential threat to the health of the big game animals;

9           (ii) a detriment to the habitat or land on which the big game animals or a landowner relies; or

10          (iii) an imbalance in the total number of big game animals or the age or sex characteristics of the big  
11 game animal population in the hunting district.

12          (2) An owner of real property may not create or maintain a concentration of big game animals that results  
13 in or may result in:

14           (a) damage to adjoining property, whether public or private;

15           (b) the inability of the department to manage big game animals within department population objectives  
16 approved by the commission or to maintain the health of big game animals; or

17           (c) the increased risk of disease transmission.  
18

19       **NEW SECTION. Section 3. Request for review of existence of concentration of big game animals**  
20 **-- procedure upon receipt of request.** (1) A person who owns land or crops that are damaged by big game  
21 animals within any hunting district established by the commission may request in writing that the department  
22 investigate whether a concentration of big game animals exists within that district.

23          (2) Upon receipt of the request for investigation, the department shall conduct the necessary research  
24 to determine whether a concentration of big game animals exists in that hunting district. The department shall  
25 provide the results of the research to the big game animal concentration advisory board created in [section 8].

26          (3) The big game animal concentration advisory board shall review the research results and advise the  
27 department as to whether or not a landowner may be creating or maintaining a concentration of big game animals  
28 and may recommend that a remedy may be appropriate pursuant to [section 6].

29          (4) Based on its research and the recommendation of the big game animal concentration advisory board,  
30 the department shall advise the commission as to whether or not a landowner may be creating or maintaining

1 a concentration of big game animals and recommend to the commission whether mitigation and remedies are  
2 appropriate pursuant to [sections 5 and 6].

3  
4 **NEW SECTION. Section 4. Department-initiated review of existence of concentration of big game**  
5 **animals.** The department may initiate a review to determine whether there may be a concentration of big game  
6 animals in a hunting district where:

7 (1) the department is unable to manage big game animals within department population objectives  
8 approved by the commission or to maintain the health of big game animals; or

9 (2) the department identifies an increased risk of disease transmission.

10  
11 **NEW SECTION. Section 5. Mitigation of circumstances causing concentration of big game**  
12 **animals.** If the commission determines that a landowner is creating or maintaining a condition that results in a  
13 concentration of big game animals based upon a department review, the commission may:

14 (1) direct the department to work with the affected landowner to develop a plan to reduce the  
15 concentration; or

16 (2) reduce the concentration of big game animals through other means, including but not limited to:

17 (a) requiring the landowner to effectively disperse the big game animals through a department-approved  
18 plan;

19 (b) implementing department-authorized programs with the affected landowner's permission to reduce  
20 the concentration of big game animals through a department-conducted dispersal plan or through public hunting;

21 (c) adjusting the length and scheduling of hunting seasons; and

22 (d) modifying the type and number of licenses issued for the hunting of big game animals within the  
23 hunting district.

24  
25 **NEW SECTION. Section 6. Remedies for creating or maintaining conditions resulting in**  
26 **concentration of big game animals.** A landowner creating or maintaining a concentration of big game animals  
27 who fails to comply with the mitigation proposals, except those agreed upon mitigation proposals that allow public  
28 hunting on private lands as directed by the commission pursuant to [section 5(2)(b)], may be subject to the  
29 imposition of any or all of the following:

30 (1) loss of landowner preferences for hunting licenses;

- 1 (2) loss of resident landowner-sponsored and outfitter-sponsored license use on the property;  
2 (3) restricting or prohibiting the harvest of antlered animals in locations of concentration; and  
3 (4) all associated costs incurred by the commission and department in investigating and determining the  
4 concentration of big game animals and for actions to reduce the concentration of big game animals through a  
5 department-conducted dispersal plan.

6  
7 **NEW SECTION. Section 7. Rules for determining if landowner is creating or maintaining**  
8 **conditions resulting in concentration of big game animals.** The commission shall adopt rules that specify the  
9 procedures and criteria to be followed in determining whether a landowner is creating or maintaining conditions  
10 that result in the concentration of big game animals that violates [section 2(2)]. The rules must, at a minimum,  
11 address:

- 12 (1) department recommendations that evaluate all relevant scientific information regarding the big game  
13 animals in the hunting district and the nature and condition of the habitat in the hunting district;  
14 (2) the record of harvest of big game animals in the hunting district, the issuance of big game animal  
15 hunting licenses, and the big game animal hunting success rate;  
16 (3) the land ownership in the hunting district and land use practices;  
17 (4) written notification to a landowner alleged to be creating or maintaining a concentration of big game  
18 animals;  
19 (5) an opportunity for the landowner who is alleged to be creating or maintaining a concentration of big  
20 game animals to respond within 60 days;  
21 (6) an opportunity for other hunting district landowners to receive notice and provide evidence regarding  
22 the effects of associated big game animal concentrations on their property; and  
23 (7) the report and recommendations of the big game animal concentration advisory board as provided  
24 in [section 8(1)].

25  
26 **NEW SECTION. Section 8. Big game animal concentration advisory board.** (1) The commission  
27 shall establish a big game animal concentration advisory board to:

- 28 (a) recommend statewide rules and procedures for reviewing written requests for investigation of whether  
29 a landowner is creating or maintaining conditions that result in a concentration of big game animals that violates  
30 [section 2(2)];

(b) review the results of the department's research regarding a request for an investigation that alleges that a landowner is creating or maintaining conditions that result in a concentration of big game animals that violates [section 2(2)]; and

(c) provide the department with a recommendation on the written request for an investigation that alleges that a landowner is creating or maintaining conditions that result in a concentration of big game animals that violates [section 2(2)].

(2) The board must be composed of at least five but not more than seven members, including but not limited to:

(a) a private landowner who either owns or controls by lease at least 3,000 acres;

(b) a resident hunter who has purchased a conservation license for a period of 7 consecutive years;

(c) a representative of a federal land management agency with experience in wildlife biology;

(d) a big game animal wildlife biologist employed by the department; and

(e) a member of the commission.

(3) The advisory board shall function in an advisory capacity as defined in 2-15-102.

(4) The director shall provide support, including staff, that is appropriate for the board to carry out its duties. Members of the board must be reimbursed and compensated in the same manner as members of quasi-judicial boards under 2-15-124(7).

**Section 9.** Section 87-1-225, MCA, is amended to read:

**"87-1-225. Regulation of wild animals damaging property -- public hunting requirements. (1)**

Subject to the provisions of subsection (2), a landowner is eligible for game damage assistance under subsection (3) if ~~he~~ the landowner:

(a) allows public hunting during established hunting seasons; or

(b) does not significantly reduce public hunting through imposed restrictions.

(2) The department may provide game damage assistance when public hunting on a landowner's property has been denied because of unique or special circumstances that have rendered public hunting inappropriate.

(3) Within 48 hours after receiving a request or complaint from any landholder or person in possession and having charge of any land in the state that wild animals of the state, protected by the fish and game laws and regulations, are doing damage to the property or crops ~~thereon~~ on the land, the department shall investigate and

1 arrange to study the situation with respect to damage and depredation. The department may then decide to open  
2 a special season on the game or, if the special season method ~~be is~~ not feasible, the department may destroy  
3 the animals causing the damage or immediately implement any of the big game animal mitigation provisions of  
4 [section 5]. The department may authorize and grant the holders of ~~said the~~ property permission to kill or destroy  
5 a specified number of the animals causing the damage. ~~No This section does not apply to a wild ferocious animal~~  
6 ~~damaging property or endangering life shall be covered by this section."~~

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8 **NEW SECTION. Section 10. Codification instruction.** [Sections 1 through 8] are intended to be  
9 codified as an integral part of Title 87, chapter 3, and the provisions of Title 87, chapter 3, apply to [sections 1  
10 through 8].

11 - END -